

DRINKING AT THE LAST CHANCE SALOON

BY HUGO GREENHALGH

We have been here before – most notably in 1990 when Sir David Calcutt QC was appointed to head a committee to examine journalistic standards amid concerns over privacy.

It was a tense time. In the wake of a series of press-led scandals, David Mellor, who was to become the Conservative minister for National Heritage, warned in 1989: “I do believe the press – the popular press – is drinking in the Last Chance Saloon.”

Unfortunately, in the UK, we all remember what happened next: precisely nothing. Behind-the-scenes power broking by the media barons led to the establishment of the Press Complaints Commission, a self-regulatory body that has since proved particularly toothless.

And David Mellor? The “minister for

fun” – as he was soon dubbed – became a tabloid target. *The Sun* took great pleasure in revealing details how he would supposedly wear his beloved Chelsea football strip while romping with Antonia de Sancha, an actress/model most definitely not his wife.

Here you have the seeds for the current mess the press finds itself in: a clutch of powerful owners holding too much sway with government; a regulatory body that simply serves as window-dressing; and a vindictive tabloid press out to crush its enemies.

No wonder actor Hugh Grant, once a tabloid darling, but now most certainly an enemy, was moved to brand the popular press as engendering “a culture of pure evil”. Somewhere between the establishment of the PCC and the decision to hack into the phone

of 13-year-old murder victim Milly Dowler, the tabloid press simply lost its way.

Any sense of how journalism should be conducted was placed firmly behind chasing newspaper sales and ever more salacious stories. The Leveson Inquiry, set up by Prime Minister David Cameron in the wake of the broader phone hacking scandal, has become much more far-reaching in its scope, drawing in politicians from both ends of the spectrum as it tries to unpick the confluence of British politics, media and society in the 21st century.

What is clear is that whatever comes out of Leveson, journalism – both for the tabloids and the broadsheets – is set to come under much greater scrutiny; just how onerous has yet to be determined.

The key question is whether it is likely to be statutory – something that has yet to achieve a consensus among the UK’s political class. While Nick Clegg, Deputy Prime Minister, told Leveson that the PCC was toothless and backed statutory regulation in some form, the Home Secretary, Theresa May, told the inquiry she felt it might “encroach on freedom”.

Lord Justice Leveson, a member of the Court of Appeal, has yet to publish his recommendations as the inquiry, which began formal hearings in November 2011, is still rumbling on. However, in the wake of

testimony given by former Prime Minister, Tony Blair in May, he indicated the potential shape of the new body.

Any regulatory organisation would have to be, he said, “independent of the government, independent of the state, independent of Parliament, but independent of the press”. This was a clear dig at the PCC, a body described by Bob Franklin, professor of journalism studies at Cardiff University, as taking self-regulation to “the ultimate caricature. It was funded and staffed by the publishers whose activities it was meant to be regulating”.

Leveson went on to say that the new regulatory body must have journalism “expertise on it or available to it” and – in an apparent recognition of the general attitude towards the PCC – that it “must command the respect of the press but equally the respect of the public”.

Achieving this balance between the freedom of the press and allowing recourse for the public is critical, says John Tulloch, professor of journalism at the University of Lincoln.

Yet he remains wary of allowing the media free rein: the freedom of the press is not an absolute, he argues. “I would be extremely concerned about the character of any legislation and would be very interested

in the small print, particularly if it involved the state having any more power or influence over what journalists do," he says.

"But that said, I do not support the fact that the freedom of the press is an absolute over other absolutes in human rights that we wish to defend. It is about balancing the freedom of the press against these fundamental human rights. We all have a right to privacy and it is not axiomatic that the freedom of the press trumps that."

What the Leveson Inquiry has achieved so far is a recalibration of the focus on regulating content to a broader look at the regulation of media ownership as a whole.

Ed Miliband, leader of the opposition Labour Party, has proposed a cap of between 20 and 30% of overall market share – almost certainly with a nod to the 34% currently held by News International. Making his proposal to the Leveson Inquiry – in a move that one commentator said made the judge "wince" – Miliband suggested that anything up to 20% is fine, and then between 20 and 30% would require greater scrutiny.

In essence, this idea is a good one – anything that reduces the concentration of media power in the UK should be welcomed. But in practice – in this digital age – how exactly would it work? And, more importantly, how would it be enforceable?

Franklin, who is also editor of three journals, *Journalism Studies*, *Journalism Practice* and *Digital Journalism*, would like to see the establishment of a Media Standards Authority.

"Regulation has always referred to regulation of content," he says, "and this current debacle has come about because of the encouragement of a totally free market when it comes to media ownership – and, with this relaxation, we have seen a growing lack of concern and ability to control and regulate content.

"We need to reconceptualise [the nature of regulation], where concepts like scrutiny and review are more central than saying, 'This chap's a bounder', and other notions of criminality."

This would place more emphasis on the conduct of the journalists themselves. Questions of journalistic ethics have become a joke in this age of hacking and blagging, and, to an extent, broadsheet journalists have been equally tarred by the tabloid brush.

But even though the Leveson Inquiry has been kick-started by practices emanating from tabloid newsrooms, Franklin is adamant: there should not be one set of regulations for the popular press and another for the broadsheets. "That's just snobbery," he says.

What he would like to see instead is

greater stress on the ethics of journalistic behaviour. "There should be an institution of journalism ethics that should receive some sort of public support," he suggests.

Ultimately, though, once the Leveson Inquiry wends its weary way to an inevitable recommendation of tighter regulation, it is surely incumbent on the individual journalists to take some responsibility for their actions. Claiming the defence of "My news editor told me to do it" has clearly been shown as groundless; individual journalists need to determine their own personal set of ethics – as well as adhere to greater journalistic ones.

Quite simply, the culture of the anything-goes tabloid newsroom has to change. Franklin calls for regulations that empower the journalist to be able to stand up to newsroom bullies if they feel they are being asked to do something unethical. "There should be serious thinking about the culture of the press," he argues. "This should be supported by a benign system where it might become normal to regard a working journalist as someone who would be able to stand up for themselves [in the newsroom]."

That is critical. Self-regulation may have failed, but it is as much for the media to clean up its act as it will be to adhere to almost certainly tighter regulations. After 23 years, please let's not prove David Mellor right.

ATTEMPTS TO REGULATE THE PRESS ARE NOTHING NEW

Bob Franklin, professor of journalism studies at Cardiff University, points out that the history of media regulation stretches back as far as the taxes on knowledge imposed in the 19th century and "various restrictions on publication and free discussion". Closer to the modern day, the 1970s and 1980s saw a "flourish of activity", he says. "There was a great concern about privacy – partly created by a train crash at the time, where one newspaper had published a picture of dead bodies on the train – and the right of reply. Two private members' bills were put forward: one demanding a right of reply, if you felt you had been misrepresented by the press; and the other was a privacy bill. Both were turned down on the promise of the Calcutt Committee [into press behaviour and privacy]. This was a mini-Leveson in the early 1990s. Around that time, the Press Council was shut and the Press Complaints Commission was set up." A move by Calcutt to "sniff in the direction of statutory regulation drew an outcry", Franklin continues. "It drew on that 19th-century history of state regulation being equivalent to censorship."